

Appl. No. 09/558,945
Amdt. dated November 6, 2003
Reply to Office Action of August 6, 2003

PATENT

THE CLAIMS

Claim Objections

Claims 1-17, 19-27 and 36-45 were objected to because of informalities in claim

1. Claim 1 has been amended to include the proper antecedent basis.

Claim 18 was objected to under 37 CFR 1.75 as being a substantial duplicate of claim 17. Claim 18 has been canceled without prejudice.

Double Patenting

Claims 1-7 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6-8 of U.S. Patent 6,389,401. A terminal disclaimer is filed herewith to overcome the double patenting rejection.

35 U.S.C. § 112

Claims 9, 10, 19, 20, 23-26, 37, and 38-44 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant submits that claims 9, 10, 19, 20, 23-26, and 37-44 have been amended to distinctly claim the subject matter which Applicant regards as the invention.

35 U.S.C. § 103(a)

Claim 1

Applicant submits that claim 1, as amended, is patentable over the cited references. Claim 1, as amended, recites:

"1. A method of extending promotional discounts on items for sale to consumers, comprising:

...

prolonging the promoting beyond the predetermined time period upon determining that said consumer has acknowledged said promoting within the predetermined time period." (Applicant's Claim 1, emphasis added)

As shown above, Applicant has amended independent claim 1 so that the predetermined time period during which the consumer can be granted the discount or special price for a selected item is prolonged if the "consumer has acknowledged said promoting within the predetermined time period." The consumer can thus delay the termination of the inverted

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promotion. For example, an inverted promotion due to expire on one day may have its termination delayed so that the consumer can shop at a more convenient time and still receive the benefits of the inverted promotion (see Specification: page 7 lines 34-35, page 8 lines 1-3).

Applicant submits that Kremer does not teach or even suggest the concept of prolonging the promoting beyond the predetermined time period upon acknowledgement by the consumer. In Kremer, the publisher simply reserves a copy of a book, which is to be available sometime after the predetermined period, but the consumer must still purchase the book prior to the end of the predetermined time period (i.e., "pre-paid order by November 15") to be granted the discount. Kremer goes on to state that "[a]fter November 15, pre-publication orders will still be taken, but the cost will be the full retail price" See Kremer p. 78. Unlike Kremer, the consumer, under Applicant's claim 1, need not purchase the selected item before the end of the predetermined time period to receive the discount or special price. He or she can merely acknowledge the promotion thereby prolonging the promotion period and allowing the consumer to postpone his/her purchasing decision. Applicant submits that such a concept as recited in claim 1 is not taught nor even hinted at by Kremer.

The Applicant submits that Scroggie also does not teach or suggest the concept of prolonging the promoting beyond the predetermined time period upon acknowledgement by the consumer. Applicant thus respectfully submits that claim 1 is not taught or suggested by Kremer or Scroggie.

Further, Applicant respectfully submits that even if Kremer and Scroggie were combined (and there is no clear motivation to do so), the resultant combination would not teach or even suggest the feature of prolonging the promoting beyond the predetermined time period upon acknowledgement by the consumer as recited in claim 1.

Applicant thus submits that claim 1 is patentable over the cited references.

Claims 2-8, 11-17, 19-27, and 37-45

Applicant submits that claims 2-8, 11-17, 19-27, and 37-45, which depend from claim 1, should be all wable for at least a similar rationale as discussed above for claim 1.

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Claim 9

Claim 9 depends from independent claim 1. As discussed above, the feature of prolonging the promoting beyond the predetermined time period upon acknowledgement by the consumer as recited in claim 1 is not made obvious by Kremer and Scroggie as discussed above. Applicant submits that such a concept is also not taught or suggested by Day. Applicant further submits that even if Kremer, Scroggie, and Day were combined, the resultant combination would not teach or even suggest the feature. Applicant thus respectfully submits that claim 9, which depends from claim 1, is patentable over Kremer, Scroggie, and Day.

Claim 10

Claim 10 depends from independent claim 1. As discussed above, the feature of prolonging the promoting beyond the predetermined time period upon acknowledgement by the consumer as recited in claim 1 is not made obvious by Kremer and Scroggie as discussed above. Applicant submits that such a concept is also not taught or suggested by Csaszar. Applicant further submits that even if Kremer, Scroggie, and Csaszar were combined, the resultant combination would not teach or even suggest the feature. Applicant thus respectfully submits that claim 10, which depends from claim 1, is patentable over Kremer, Scroggie, and Csaszar.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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